

December 20, 2019

Mr. Henry Leskinen  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, MD 21057

Re: 10550 Reisterstown Road  
Forest Conservation Variance  
Tracking #04-19-3116

Dear Mr. Leskinen:

A request for a variance from the Baltimore County Code Article 33 Environmental Protection and Sustainability, Title 6 Forest Conservation was received by this Department on December 2, 2019. If granted, the variance would allow impact to three (3) specimen trees in order to redevelop an existing commercial site into a four-story self-storage facility, a second retail building, and associated infrastructure. The 4.5-acre property contains 1.2 acres of forest and is improved with an existing building formerly used as a nursery and garden center, which will be razed for the proposed redevelopment. The specimen trees to be impacted are a 31-inch diameter-at-breast-height (DBH) silver maple, a 55-inch DBH silver maple, and a 42-inch DBH silver maple, all in good condition. No other specimen trees exist on the property.

The Director of the Department of Environmental Protection and Sustainability (EPS) may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of the property. The applicant is seeking to construct a self-storage facility and a second retail building on the property. The property previously functioned as a nursery and garden center. As it has been demonstrated that it is possible to develop a commercial facility on this property without removing specimen trees, full application of

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the law would not deprive the applicant of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d) (2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The petitioner's plight is due to the distribution of specimen trees on the property relative to the location and space required for the proposed development rather than the general conditions of the neighborhood. The applicant proposes the construction of two commercial buildings. Under full application of the law, the buildable area would be too small to accommodate both proposed buildings. Therefore, we find that the second criterion has been met.

The third criterion (Subsection 33-6-116(d) (3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The surrounding neighborhood consists of other commercial properties, high density single-family dwellings, and apartment complexes. Given that the site's use as a commercial retail facility will not change, we find that granting this variance will not alter the essential character of this neighborhood. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e) (1) of the Code) requires that the granting of the special variance will not adversely affect water quality. The project will not impact any streams, wetlands, floodplains, or associated buffers. Moreover, multiple stormwater management (SWM) facilities are proposed as part of the redevelopment of the site that had no SWM. As such, this Department finds that the proposed variance will not adversely affect water quality. Consequently, this criterion has been met.

The fifth criterion (Subsection 33-6-116(e) (2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions resulting in conditions or circumstances requiring this special variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code. Although three specimen trees are to be removed and all 1.2 acres of existing forest cleared as a result of this project, mitigation will be provided through the purchase of credit in a forest planting bank or via payment of a fee-in-lieu of planting. Although all three specimen trees are in good condition, the forest present is in fair to poor condition and highly disturbed. Given that this is redevelopment, and the proposed mitigation will adequately offsite the loss of

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the low quality of forest, we find that this variance is consistent with the spirit and intent of Article 33, Title 6 of the Baltimore County Code and that this criterion has been met.

Based on our review, this Department finds that all required variance criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. The following note on all subsequent plans for this development project:

“A variance was granted on December 20, 2019 by Baltimore County Dept. of Environmental Protection and Sustainability to remove three specimen trees. Conditions were placed on this variance to ensure that the spirit and intent of the Forest Conservation Law were met, including providing offsite reforestation for forest cleared.”

2. This variance approval does not exempt future development activities or future removal of specimen trees at this site from compliance with Baltimore County’s Forest Conservation Law.
3. Mitigation for the removal of the three specimen trees is not required, given their location within forest to be mitigated in accordance with Sections 33-6-111 and 33-6-112 of the Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please call Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Director

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DVL/lbe

- c. Mr. Norman Suss, The Harrison Land Company LLC  
Mr. Joseph Mizrahi, MC Owings Mills LLC & JC Owings Mills LLC, Owners  
Mr. Eric McWilliams, Bohler Engineering  
Ms. Marian Honeczy, Maryland Department of Natural Resources

I/we agree to the above conditions to bring my/our property into compliance with  
Baltimore County's Forest Conservation Law.

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Owner's Signature

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Date

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Printed Name